

**STATE OF RHODE ISLAND
DEPARTMENT OF HUMAN SERVICES**

PUBLIC NOTICE OF PROPOSED RULE-MAKING

In accordance Rhode Island General Laws (RIGL) 42-35, notice is hereby given that the Department of Human Services proposes to amend the following DHS rules:

**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)
SECTION 1012: CERTIFICATION PROCEDURES**

Effective November 1, 2013, increased benefits to recipients in the Supplemental Nutrition Assistance Program (SNAP) provided by the American Recovery and Reinvestment Act of 2009 (ARRA) will expire. As a result, SNAP households will see a decrease in their SNAP benefit amounts. In addition, the minimum monthly benefit for SNAP households consisting of one and two members will decrease from \$16 to \$15. SNAP Section 1012 will be revised to reflect these changes effective November 1, 2013.

In the development of these rules, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This proposed rule is accessible on the R.I. Secretary of State website (<http://www.sec.state.ri.us/ProposedRules/>) and the DHS website (www.dhs.ri.gov) or available in hard copy upon request (401 462-2018 or RI Relay, dial 711). Interested persons should submit data, views or written comments by Thursday, September 26, 2013 to Kimberly Merolla-Brito, Office of Policy Development, Department of Human Services, Louis Pasteur Building, Bldg. 57, Howard Avenue, Cranston, RI 02920.

In Accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

The Department of Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap in acceptance for or provision of services or employment in its programs or activities.

1012 CERTIFICATION PROCEDURES

1012.05 ACTIONS ON ELIGIBLE HOUSEHOLDS

REV: ~~10/2010~~11/2013

A household's monthly allotment and the prorated initial month allotment are based on the Thrifty Food Plan (See Section 1038.40) for the household's size according to the household's net monthly income. All eligible one and two person households, including those who are categorically eligible due to receipt of RIW, GPA, SSA or a TANF-funded service, receive a minimum monthly allotment of ~~\$16~~\$15 even if the net income tables due not show a benefit amount for their net income level. If the calculation of benefits, in accordance with Section 1010, for an

initial month results in an allotment of less than ~~\$16~~15 for the household, no benefits are issued to the household for the initial month.

1012.05.05 Verification of Actual Utility Costs

REV:04/2005

If the household's actual utility expenses cannot be verified before the thirty days allowed to process the application, the agency representative should use the SUA, provided the household is entitled to use the SUA. (Refer to 1008.20.25) If the household claims expenses for an unoccupied home, the agency representative must verify the household's actual utility expenses for the unoccupied home and must use the standard utility allowance if the household incurs expenses for heating or cooling.

1012.05.10 Verification of Other Deductible Expenses

REV:04/2005

If a deductible expense must be verified and obtaining the verification may delay the household's certification, the representative advises the household that the household's eligibility and benefit level can be determined without providing a deduction for the claimed but unverified expense.

Shelter costs would be computed without including the questionable and/or unverified components. The SUA is used if the household is entitled to claim it.

If the expense cannot be verified within thirty days of the date of application, the agency representative must determine the household's eligibility and benefit level without providing a deduction for the unverified expense. If the household subsequently provides the missing verification, the agency representative redetermines the household's benefits and provides increased benefits, if any, in accordance with the timeliness standards in Section 1018.05.10 on reported changes.

The household is entitled to the restoration of benefits as a result of the disallowance of the expense only if the expense could not be verified within the 30-day processing standard because the agency representative failed to allow the household sufficient time, as discussed in Section 1012.35.10 to verify the expense. If the household would be ineligible unless the expense is allowed, the household's application is handled as provided in Section 1012.05.10.

1012.10 ESTABLISHING CERTIFICATION PERIODS

REV:10/2010

A. Definite periods of time are established which households are eligible to receive benefits. At the

expiration of each certification period eligibility for food assistance is redetermined based upon a newly completed application or recertification packet, an in-person or phone interview and such verification as is required. Under no circumstances are benefits continued beyond the end of a certification period without a redetermination of eligibility.

B. Change reporters as defined in Section 1018.05.05 are assigned the following certification periods:

1. Twenty-four (24) months
 - a. Households consisting entirely of unemployable members
 - b. Households in which all members are elderly or disabled, as defined in Sec. 1010.30.05.
2. Twelve (12) months
 - a. Households with members who are migrant or seasonal workers
 - b. Households subject to Simplified Reporting

1012.10.05 Conformance with Calendar Months

REV:01/1997

Certification periods conform to calendar months. At initial application, the first month in the certification period is generally the month of application, even if the household's eligibility is not determined until a subsequent month. For example, if a household files an application in January and the application is not processed until February, and it is assigned a six (6) month certification period, that period is January through June. Upon recertification, the certification period begins with the month following the last month of the previous certification period.

1012.10.10 Variable Benefit Level

REV:01/1988

As a result of anticipated changes, a household's benefit level for the month of application may differ from its entitlement in subsequent months. The agency representative establishes a certification period for the longest period possible over which the household's circumstances can be reasonably anticipated. The household's allotment may vary month to month within the certification period to reflect changes anticipated at the time of certification, unless the household elects the averaging techniques in 1008.

1012.10.15 Length of Certification Periods

REV:07/2009

Change reporters as defined in Section 1018.10.15 are assigned the following certification periods:

- * Unemployable households in which all members are elderly or disabled - twenty-four (24) months.

- * Households with members who are migrant or seasonal workers - Up to twelve (12) months.

Households subject to Simplified Reporting are assigned twelve (12) month certification periods.

1012.20 PROVIDING NOTICES OF ELIGIBILITY

REV:10/2010

A. Eligible Households

1. Every applicant household found eligible is provided a written notice of eligibility as soon as a determination is made but no later than thirty (30) days after the date of initial application. Refer to Section 1002.65 for information on the thirty (30) day processing standard.
2. The notice informs the household of the following:
 - a. Amount of the allotment
 - b. Beginning and ending date of the certification period
 - c. The right to a hearing and the availability of free legal representation
 - d. The household's obligation to report changes in circumstances and of the need to reapply for continued participation at the end of the certification period

B. Ineligible Households

1. Each household denied eligibility is provided a written notice of denial explaining:
 - a. The basis for the denial
 - b. The household's right to request a hearing
 - c. The telephone number of the DHS Office
 - d. The name of a person to contact for additional information
 - e. The availability of free legal service

1012.20.05 Notice in Cases of Recertification

REV:01/1984

The agency representative must provide households that have filed an application by the 15th of the last month of their certification period with either a notice of eligibility or a notice of denial by the end of the current certification period.

The agency representative must provide households that have received a notice of expiration at the time of certification and have timely reapplied with either a notice of eligibility or a notice of denial not later than 30 days after the date the household had an opportunity to obtain its last allotment.

1012.20.10 Potential Categorically Eligible Households

REV:10/2010

A household that is potentially categorically eligible to receive SNAP benefits (Section 1016.40) but whose NPA SNAP application is denied, must be informed to tell the agency if the household is approved to receive RIW and/or SSI benefits.

1012.25 NOTICES TO INELIGIBLE HOUSEHOLDS

REV:01/2002

Each household denied eligibility must be provided a written notice of denial explaining:

- * The basis for the denial;
- * The household's right to request a hearing;
- * The telephone number of the SNAP Office;
- * The name of a person to contact for additional information; and,
- * The availability of free legal services.

1012.25.10 Household-Caused or Agency-Caused Delays

REV:11/1986

A notice either of denial or of pending status is provided for applications which are delayed in processing, depending upon the cause of the delay. These are discussed in Sections 01012.35 through 01012.35.10.

1012.30 TIMEFRAME FOR DENYING AN APPLICATION

REV:10/2010

- A. Cases can be denied prior to the thirtieth (30th) day of application in the following instances:
 - 1. When the Department has all the required information and verification and can determine that the applicant household is ineligible
 - 2. When the household overtly refuses to cooperate with the agency representative in completing the application process
 - 3. When the household requests in writing that the application for SNAP benefits be withdrawn
 - 4. When an agency representative issues a Request for Documentation, RDOC, and the client does not provide the requested information.
- B. If the household has failed to avail itself for a scheduled interview as discussed in Section 1002.55.10.10 and has made no subsequent contact with the agency to express interest in pursuing the application, the household is denied and sent a notice of denial on the thirtieth (30th) day following the date

of application. The household must file a new application if it wishes to participate in the program.

- C. For a case in which an interview was conducted, the application may be denied prior to the thirtieth (30th) day from the date of application. In this instance the application may be denied on the tenth (10th) day following the date of request for verification if:
1. At the time of the intake interview, the agency representative provided the household with a list of the missing required verification necessary to determine eligibility for the Supplemental Nutrition Assistance Program; and,
 2. The agency informed the household in writing by means of an RDOC of the ten (10) day requirement for submission of missing verification; and,
 3. The agency representative notified the household in writing of the date by which any missing verification must be provided; and,
 4. The agency representative offered assistance to the household in obtaining verification as required in Section 1002.60.35; and,
 5. The household failed to provide the requested verification within the ten (10) day time frame.

1012.30.05 DENYING APPLICATION AT END OF 10 DAYS

REV:10/2005

1012.30.05 DENYING AN APPLICATION AT THE END OF 10 DAYS
FOLLOWING THE DATE OF REQUEST FOR VERIFICATION EFF: 10/2005

For a case in which an interview was conducted, the application may be denied prior to the 30th day from the date of application.

In this instance the application may be denied on the 10th day following the date of request for verification if:

- At the time of the intake interview, the agency representative provided the household with a list of the missing required verification necessary to determine eligibility for the SNAP; and,
- The agency informed the household in writing by means of an RDOC of the ten (10) day requirement for submission of missing verification; and,
- The agency representative notified the household in writing of the date by which any missing verification must be provided; and,
- The agency representative offered assistance to the household in obtaining verification as required in Section 1002.60.35; and,
- The household failed to provide the requested verification within the 10-day time frame .

1012.35

DELAYED ELIGIBILITY DETERMINATIONS

REV:10/2010

- A. If the Department cannot make an eligibility determination within thirty (30) days from the date of application, the cause of delay is determined and an automated notice of pending status is sent to the household on the thirtieth (30th) day. The SNAP 230P states what action the household must take and that its application will be denied if the household fails to take the required action within sixty (60) days of the date the application was filed.
- B. If the application is pending because action by the agency representative is necessary to complete the application process, as described in 1012.35.05, the automated notice informs the household that its application has not been completed and is being processed.
- C. If the application is pending because action by the household is necessary to complete the application process, as described in 1012.35.05, the automated notice explains what action the household must take and that its application will be denied if the household fails to take the required action within sixty (60) days of the date the application was filed.

1012.35.05

Determining Cause for Delay

REV:10/2010

- A. The agency representative shall determine the cause of the delay using the following criteria:
 - 1. A delay shall be considered the fault of the household if the household has failed to complete the application process even though the agency has taken all the action it is required to take to assist the household. The agency must have taken the following actions before a delay can be considered the fault of the household:
 - a. For households that have failed to complete the application form, the agency must have offered, or attempted to offer, assistance in its completion.
 - b. If one or more members of the household have failed to register for work, as required in Section 1004.25, the agency must have:
 - i. informed the household of the need to register for work
 - ii. determined if the household members are exempt from work registration
 - iii. given the household at least ten (10) days from the date of notification to register these members

- c. In cases where verification is incomplete, the agency must have:
 - i. provided the household with a statement of required verification and offered to assist the household in obtaining required verification
 - ii. allowed the household sufficient time to provide the missing verification; sufficient time shall be at least ten (10) days from the date of the agency's initial request for the particular verification that was missing
- d. For households that have failed to appear for an interview, the agency must notify the household that it missed the scheduled interview and that the household is responsible for rescheduling a missed interview.
 - i. If the household contacts the agency within the thirty (30) day processing period, the agency must schedule a second interview.
 - ii. If the household fails to schedule a second interview, or the subsequent interview is postponed at the household's request or cannot otherwise be rescheduled until after the twentieth (20th) day but before the thirtieth (30th) day following the date the application was filed, the household must appear for the interview, bring verification, and register members for work by the thirtieth (30th) day; otherwise, the delay shall be the fault of the household.
 - iii. If the household has failed to appear for the first interview, fails to schedule a second interview, and/or the subsequent interview is postponed at the household's request until after the thirtieth (30th) day following the date the application was filed, the delay shall be the fault of the household.
 - iv. If the household has missed both scheduled interviews and requests another interview, any delay shall be the fault of the household.
- 2. Delays that are the fault of the agency include those cases where the agency failed to take the actions described in a. through d. above, and/or the following:
 - a. If the household met its obligations in a timely manner but the agency failed to complete the application process promptly.
 - b. If the agency representative fails to provide required assistance or fails to give the household sufficient time.

1012.35.10 Agency Caused Delay

REV:08/2009

A delay is the fault of the agency if it failed to take any of the following actions:

- * For households that have failed to complete the application form, the agency representative must have offered, or attempted to offer, assistance in its completion.
- * If one or more members of the household have failed to register for work as required in Section 1004.25, the agency representative must have informed the household of the need to register for work and given the household at least 10 days from the date of notification to register the members.
- * In cases where verification is incomplete, the agency representative must have provided assistance when required in Section 1002.60 and allowed the household sufficient time to provide the missing verification. Sufficient time is at least 10 days from the date of the agency representative's initial request for the particular verification that was missing.
- * For households that have failed to participate in an interview, the household must have attempted to reschedule the initial interview within 30 days of the date the application was filed. However, if the household has failed to participate in the first interview and a subsequent interview is postponed at the household's request or can not otherwise be rescheduled until after the 20th day but before the 30th day following the application date, the household must participate in the interview, provide verification, and register members for work by the 30th day; otherwise, the delay shall be the fault of the household. If the household has failed to participate in the first interview and a subsequent interview is postponed at the household's request until after the 30th day following the application date, the delay shall be the fault of the household. If the household has missed both scheduled interviews and requests another interview, any delay shall be the fault of the household.
- * Further, the fault may be the agency's if the household met its obligations in a timely manner but the agency failed to complete the application process promptly.
- * If the agency representative fails to provide required assistance or fails to give the household sufficient time, the fault is then the agency's. Agency-caused delays include but are not limited to these situations.

1012.40 ACTION TAKEN IF THE HOUSEHOLD CAUSES DELAY

REV:10/2010

A. Household Caused Delay

1. If an RDOC notice was issued and the client does not respond within the ten (10) days, and the timeframe remains within the thirty (30) days, the case is denied.
2. If the Department can not make an eligibility determination by the thirtieth (30th) day of the original application filing date, due to the fault of the household, the household loses its entitlement to benefits for the calendar month of application.
 - a. If the household takes the required action within sixty (60) days following the date the application was filed, the Department reopens the case without requiring a new application.
 - b. If the household was at fault for the delay in the first thirty (30) day period, but is found to be eligible during the second thirty (30) day period, the Department provides benefits from the date the household provides the required documentation. The household is not entitled to benefits for the calendar month of application when the delay was the fault of the household.
 - c. No further action by the Department is required after the notice of denial or 230P is sent if the household failed to take the required action within sixty (60) days following the date the application was filed.

B. Agency Caused Delay

1. Whenever a delay in the initial thirty (30) day period is the fault of the Department, immediate corrective action occurs. A notice of denial cannot be sent for Department caused delays.
 - a. If an RDOC was issued and the case remains pending after the thirty (30) days, but the case remains pending after the ten (10) days, but the ten (10) days have not passed and the client provides the documentation within the 10 days, benefits are restored from the date of the original application.
 - b. If the household is found to be eligible during the second thirty (30) day period, the household is entitled to benefits retroactive to the date of application. If, however, the household is found to be ineligible, the Department denies the application.
 - c. If the case is denied, the household must be advised of its possible entitlement to benefits lost as a result of agency caused delays in accordance with Section 1020.

C. Delays beyond 60 days

1. If the Department is at fault for not completing the application process by the end of the second thirty (30) day period, and the case file is otherwise complete, the Department shall continue to process the original application until an eligibility determination is reached.

- a. If the household is determined eligible, and the Department was at fault for the delay in the initial thirty (30) days, the household shall receive benefits retroactive to the month of application. However, if the initial delay was the households fault, the household shall receive benefits retroactive from the date the household provides the required documentation.
 - b. The Department uses the original application to determine the households eligibility in the months following the sixty (60) day period, or it may require the household to file a new application.
2. If the Department is at fault for not completing the application process by the end of the second thirty (30) day period, but the case file is not complete enough to reach an eligibility determination, the Department may continue to process the original application, or deny the case and notify the household to file a new application.
 - a. If the case is denied, the household must be advised of its possible entitlement to benefits lost as a result of agency caused delays in accordance with Section 1020.
 - b. If the Department was at fault for the delay in the initial thirty (30) days, the amount of benefits lost is calculated from the date of the original application. If, however, the household was at fault for the initial delay, the amount of benefits lost would be calculated from the date the household provides the required documentation.
3. If the household is at fault for not completing the application process by the end of the second thirty (30) day period, the Department denies the application and requires the household to file a new application if it wishes to participate.

1012.40.05 Notification - Household Caused Delays

REV:10/2005

1012.40.05 Notification - Household Caused Delays REV:10/2005

The agency representative sends the household a notice of denial at the end of ten (10) days following the date of the initial request for the particular verification for household caused delays.

No further action by the agency representative is required after the notice of denial is sent if the household fails to provide the necessary verification by the 30th day following the date of the initial request for the particular verification that was missing.

1012.40.10 Reopening the Case

REV:03/1979

If a household takes the required action within 60 days of the date the application was filed, the agency representative reopens the case without requiring a new application.

1012.40.15 Notice of Pending Status

REV:03/1979

If the application is to be held pending because some action by the agency representative is necessary to complete the application process, as described in 1012.35 - 1012.35.10, the agency representative provides the household with a written notice which informs the household that its application has not been completed and is being processed.

If some action by the household is also needed to complete the application process, the notice must also explain what action the household must take and that its application will be denied if the household fails to take the required action within 60 days of the date the application was filed. Include on the notice the date by which the household must provide the missing verification if the application is held pending. This is only until 30 days following the date verification was initially requested.

1012.40.20 Benefits to Households At Fault For Delay

REV:03/1979

If the household was at fault for the delay in the first 30-day period, but is found to be eligible during the second 30-day period, the agency provides benefits only from the month following the month of application. The household is not entitled to benefits for the month of application when the delay was the fault of the household.

1012.45 AGENCY CAUSES DELAY IN INITIAL 30 DAYS

REV:03/1979

Whenever a delay in the initial 30 day period is the fault of the agency, the agency representative must take immediate corrective action. A notice of pending status must be sent. A notice of denial cannot be sent for agency caused delays.

The agency representative must not deny the application if s/he caused the delay, but instead notifies the household by the 30th day after the application was filed that its application is being held pending. The agency representative shall also notify the household of any action it must take to complete the application process. If verification is lacking, the agency representative has the option of holding the

application pending for only 30 days following the date of the initial request for the particular verification that was missing.

Action Taken When Agency Causes Delay

If the household is found to be eligible during the second 30-day period, the household is entitled to benefits retroactive to the month of application. If, however, the household is found to be ineligible, the agency representative must deny the application.

1012.50 DELAYS BEYOND 60 DAYS-AGENCY CAUSED DELAY

REV:03/1979

If the agency is at fault for not completing the application process by the end of the second 30-day period, and the case file is otherwise complete, the agency representative continues to process the original application until an eligibility determination is reached.

Agency Caused Initial Delay

If the household is determined eligible, and the agency was at fault for the delay in the initial 30 days, the household receives benefits retroactive to the month of application.

If, however, the household was at fault for the initial delay, the amount of benefits lost would be calculated from the month following the month of application.

Agency Caused Delay - Information Incomplete

If the agency is at fault for not completing the application process by the end of the second 30-day period, but the case file is not complete enough to reach an eligibility determination, the agency representative may continue to process the original application, or deny the case and notify the household to file a new application.

If the case is denied, the household must be advised of its possible entitlement to benefits lost as a result of agency caused delays in accordance with Section 1020.

Agency Caused Both Delays

If the agency was also at fault for the delay in the initial 30 days, the amount of benefits lost would be calculated from the month of application.

1012.55 HOUSEHOLD CAUSED DELAYS BEYOND 60 DAYS

REV:03/1979

If the initial delay was the household's fault, the household receives benefits retroactive only to the month following the month of application. The agency representative may use the original application to determine the household's eligibility in the months following the

60-day period, or it may require the household to file a new application.

Household Caused 2nd Delay

If the verification is not received by the 30th day following the date of the initial request for a particular verification that was missing, the agency representative immediately closes the application. A notice of denial need not be sent if the notice of pending status informed the household that it would have to file a new application if verification was not received within 30 days of the initial request.

The household is not entitled to any lost benefits, even if the delay in the initial 30 days was the fault of the agency.